(2)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION NO. 90 OF 2001

BETWEEN

Smt. Kirti Paudwal Wife of Shri B.Paudwal, aged about 45 years, working as Incharge Principal, Female Health Worker Training Centre, Raigarh (Chhattisgarh).

PETITIONER

A N D

1. State of Chhattisgarh, through the Secretary Department of Health, Mantralaya, D.K. Buildings Raipur (Chhattisgarh).

2. The Director, Health Services, D.K. Buildings, Raipur (Chhattisgarh).

3. The Chief Medical and Health Officer, Raigarh.

4. Smt. E. Tony, District Public Health Nurse, Raigarh.

5. State Administrative Tribunal, through its Registrar at Raipur, R.D.A. Building, Ghadi Chowk, RAIPUR (Chhattisgarh).

RESPONDENTS

No. 94/2 Presented by Shri Harish Kapoor dated 17-1-01

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, ~~मध्यप्रदेश, जबलपुर~~ Chhattisgarh, Bilaspur

आदेश पत्रक

W.P. No. 90/2001

मामला क्रमांक ..... सन् 199

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	24/1/2001 Shri Prashant Mishra, learned counsel for the petitioner. Dr. N.K. Shukla, learned Dy.A.G. for respondents nos. 1 to 3. Heard. From the order passed by the Tribunal in Original Application No.19/2001 on 9/1/2001 it appears that while rejecting the petition in motion hearing itself, the Tribunal has observed that the impugned order regarding handing over and taking over of additional charge the petitioner's rank, seniority or post are not adversely affected. For making these observations the Tribunal had relied upon a judgment of the Supreme Court in the matter of Union of India Vs K.R. Tahiliani (AIR 1980 SC 953). Shri P. Mishra, learned counsel for the petitioner submits that the judgment on which strong reliance was placed before the Tribunal was subsequently over-ruled by the Supreme Court in the matter of A.L. Ahuja Vs. Union of India (AIR 1987 SC 1907). We have read the said judgment of the Supreme Court. In the said	

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judgment, the Supreme Court in para 6 has given the reasons for reversing its earlier judgment.

As the Tribunal placed its strong reliance upon an over-ruled judgment, we are of the opinion that the matter deserves to be reconsidered by the Tribunal. It is not necessary to issue notices to other respondents because the Tribunal itself had dismissed the matter in motion hearing. The order passed by the T nal on 9/1/2001 in view of the discussion aforesaid, deserves to and is accordingly set aside.

The Tribunal is hereby directed to admit the petition, and issue notices to the parties and hear the matter on its own merits, keeping in view the judgment of the Supreme Court in the matter of A.L. Ahuja (supra). We are not making any observations on the merits of the matter but we are remanding the case back to the Tribunal for hearing the parties. It wouldbe within the own discretion of the Tribunal to pass necessary orders regarding stay.

Taking into consideration the exigencies and the likelihood of the petitioner being relieved from the office, we direct that till petitioner's prayer for grant of ad-interim relief is not decided by the Tribunal the parties shall maintain status quo as it obtains today.

GRPRJ—FS/4—4/99—20,000.

XI-HC-22

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	.. 3 .. The petition is allowed. No costs. Certified copy within two days. Sd/- Chief Justice	Sd/- R.S. Garg Judge
rsnr		